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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,987	11/12/2003	Terrence W. Schmidt	1934-8-3	7342

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EXAMINER

OLSON, LARS A

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 11/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,987

Applicant(s)

SCHMIDT ET AL.

Examiner

Lars A Olson

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. An amendment was received from the applicant on September 27, 2004.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 7, 9-12, 19-22, and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Kirby et al. (US 3,913,512).

Kirby et al. discloses the same method as claimed, as shown in Figures 1-6, that is comprised of the steps of retrieving a module, defined as Part #16, with a vessel in the form of a ship, defined as Part #10 as shown in Figures 1 and 2, and installing said module in said vessel, as shown in Figures 4 and 5, by moving said module into said vessel using a ramp, defined as Part #23, and lifting said module using a crane system, defined as Part #80. Kirby et al. also discloses a method comprised of the steps of uncoupling a module from a bay of a vessel, and removing said module from said bay, as shown in Figure 3, by sliding said module down a ramp, defined as Part #23. Kirby et al. also discloses a method comprised of the steps of removing a first module from a vessel, as shown in Figure 3, and installing a second module in said vessel, as shown in Figures 1 and 2. Kirby also discloses a vessel, defined as Part #10, with a frame,

defined as Part #80, that is operable to retrieve a module, defined as Part #16, where said module is operable to functionally interact with said vessel, and is operable to be installed in said vessel.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirby et al.

Kirby et al., as set forth above, discloses all of the features claimed except for the use of a vessel in the form of an aircraft, a land vehicle; and a space ship.

The examiner takes official notice that the use of an aircraft to retrieve a cargo module by installing said module in said aircraft is known in the art.

The examiner takes official notice that the use of a land vehicle such as a semi truck to retrieve a cargo module by installing said module in said land vehicle is known in the art.

The examiner takes official notice that the use of a space ship such as the Space Shuttle to retrieve a cargo module by installing said module in said space ship is known in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a vessel in the form of an aircraft, land vehicle or space ship in combination with the method for retrieving a module as disclosed by Kirby et al. for the purpose of providing a vessel for retrieving a cargo module that is capable of travel through the air, over land, or in space.

6. Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirby et al. in view of Vernede et al. (US 3,835,802).

Kirby et al., as set forth above, discloses all of the features claimed except for the use of a vessel in the form of a multi-hull ship with a means for lifting a module into said vessel.

Vernede discloses a marine cargo vessel, as shown in Figures 1-10, with multiple hulls, defined as Parts #1 and 2, and a means for lifting a cargo module into a cargo bay of said vessel, as shown in Figures 1, 2, 6 and 7.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a vessel with multiple hulls and a means for lifting a module into said vessel, as taught by Vernede et al., in combination with the method for retrieving a module as disclosed by Kirby et al. for the purpose of providing a vessel that does not require ballasting in order to retrieve a module into a bay of said vessel.

7. Claims 16-18 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirby et al. in view of Aavitsland (US 5,862,770).

Kirby et al., as set forth above, discloses all of the features claimed except for the use of a vessel that is coupled to a module by lowering said vessel onto said module

with a ballasting system, and uncoupled from said module by raising said vessel with said ballasting system.

Aavitsland discloses a vessel, as shown in Figures 1-3, that is coupled to a module, defined as Part #2, by lowering said vessel onto said module with a ballasting system, as described in lines 63-67 of column 1, and uncoupled from said module by subsequently raising said vessel with said ballasting system.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a vessel that is coupled to a module by lowering said vessel onto said module with a ballasting system, and uncoupled from said module by raising said vessel with said ballasting system, as taught by Aavitsland, in combination with the method for retrieving a module as disclosed by Kirby et al. for the purpose of providing a vessel that does not require a means for lifting a cargo module in order to retrieve said module into a bay of said vessel.

Response to Arguments

8. Applicant's arguments filed on September 27, 2004 regarding claims 1-26 have been fully considered but they are not persuasive.

9. The applicant argues that Kirby et al. (US 3,913,512) does not disclose a vessel or method for retrieving a mission module, where said mission module is capable of functionally interacting with said vessel.

10. In response to the applicant's argument, Kirby et al. does in fact disclose a vessel and a method for retrieving a module, defined as Part #16, where said module is

capable of functionally interacting with said vessel. Functional interaction is simply the cooperation of one object with another object in order to perform a certain task that cannot be performed by only one of said objects. Since the module as disclosed by Kirby et al. cooperates with a marine vessel in order to perform the task of carrying a cargo from one location to another location, then said module is functionally interacting with said marine vessel in order to perform said task. Therefore, for the reasons given above, the rejection of claims 1-26 is deemed proper and is not withdrawn.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3617

12. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (703) 308-9807.

lo

November 5, 2004

LARS A. OLSON
PATENT EXAMINER

Lars Olson
11/5/04